

Montana State Legislature

2015 SESSION

ADDITIONAL DOCUMENTS

May include the following:

Business Page

[Signed by Chairman]

Roll Call

Standing Committee Reports

Tabled Bills

Fiscal Reports

Rolls Call Votes

Proxy Forms

Visitor Registrations

***Any other documents, which were submitted after the committee hearing has ended and/or was submitted late [within 48 hours], regarding information in the committee hearing.**

***Witness Statements that were not presented as exhibits.**

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2015 Legislative

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BUSINESS REPORT

**MONTANA SENATE
64th LEGISLATURE - REGULAR SESSION**

SENATE STATE ADMINISTRATION COMMITTEE

Date: Wednesday, April 1, 2015

Place: Capitol

Time: 11:30 A.M.

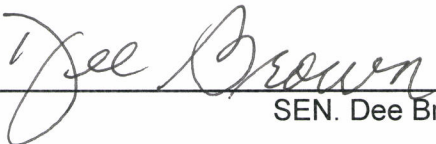
Room: 350

BILLS and RESOLUTIONS HEARD:

EXECUTIVE ACTION TAKEN:

HB 123 - Be Concurred In As Amended

Comments:



SEN. Dee Brown, Chair

MONTANA STATE SENATE
Roll Call
STATE ADMINISTRATION COMMITTEE

DATE: April 1, 2015

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR DEE BROWN, CHAIRMAN	✓	
SENATOR ROGER WEBB, VICE CHAIR		✓
SENATOR ROBYN DRISCOLL	✓	
SENATOR JEDEDIAH HINKLE	✓	
SENATOR DOUG KARY	✓	
SENATOR SUE MALEK	✓	
SENATOR LEA WHITFORD	✓	



SENATE STANDING COMMITTEE REPORT

April 1, 2015
Page 1 of 9

Madame President:

We, your committee on **State Administration** report that **House Bill 123** (third reading copy -- blue) be concurred in as amended.

Signed: Dee Brown
Senator Dee Brown, Chair

To be carried by Senator Tom Facey

And, that such amendments read:

1. Page 2, following line 5.

Insert: "(1) "Confidential information" means information that is accorded confidential status or is prohibited from disclosure as provided by applicable law. The term includes information that is:

(a) constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;

(b) related to judicial deliberations in adversarial proceedings;

(c) necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the state; and

(d) designated as confidential by statute or through judicial decisions, findings, or orders."

Renumber: subsequent subsections

2. Page 2, following line 8.

Insert: "(3) "Constitutional officer record" means a public record prepared, owned, used, or retained by a constitutional officer."

Renumber: subsequent subsections

Committee Vote:

Yes 7, No 0

Fiscal Note Required X

3. Page 2, line 23 through line 24.

Strike: "any political" on line 23 through "Montana" on line 24

Insert: "the executive, legislative, and judicial branches of Montana state government, a political subdivision of the state, a local government, and any agency, department, board, commission, office, bureau, division, or other public authority of the executive, legislative, or judicial branch of the state of Montana"

4. Page 4, following line 17.

Insert: "(4) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(5) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency."

Renumber: subsequent subsection

5. Page 5, line 20.

Strike: "may seek assistance from"

Insert: "shall cooperate with"

6. Page 5, line 21.

Strike: "regarding"

Insert: "in the"

7. Page 5, line 22.

Following: "plan"

Insert: "using [sections 13 through 21] as guidance"

8. Page 6, line 17.

Strike: "WHOSE" through "DENIED"

Insert: "alleging a deprivation of rights"

9. Page 6, line 19.

Strike: "MUST"

Insert: "may"

10. Page 11, following line 5.

Insert: "(vi) the governor;"

Renumber: subsequent subsections

11. Page 20, following line 3.

Insert: "(5) A state agency or a third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer."

12. Page 21, line 23.

Strike: "accurate and appropriate minutes"

Insert: "minutes taken in compliance with subsection (2)"

13. Page 21, line 28.

Strike: "who alleges a violation and"

Insert: "alleging a deprivation of rights"

14. Page 21, line 29.

Strike: "plaintiff's"

Insert: "person's"

Strike: "must"

Insert: "may"

15. Page 23, line 27.

Following: "confidential"

Insert: "information as defined in [section 2]"

16. Page 23, line 28.

Strike: "under [section 3]"

17. Page 25, line 16.

Following: "confidential"

Insert: "information as defined in [section 2]"

18. Page 25, line 17.

Strike: "under [section 3]"

19. Page 28, line 8 through line 9.

Strike: "exempt" on line 28 through "[section 3]" on line 9

Insert: "confidential information as defined in [section 2]"

20. Page 29, line 5 through line 6.

Strike: "exempt" on line 5 through "any other" on line 6

Insert: "confidential information as defined in [section 2] and is exempt from any"

21. Page 35, line 22.

Following: "information"

Strike: "may not be considered a public record"

Insert: "is confidential information as defined in [section 2]"

22. Page 35, line 23.

Strike: "under [section 3]"

23. Page 40, line 3.

Following: "~~chapter 6~~"

Insert: ", are confidential information as defined in [section 2],"

24. Page 42, line 12 through line 13.

Strike: "under" on line 12 through "[section 3]" on line 13

25. Page 44, line 27.

Insert: "COORDINATION SECTION. **Section 61. Coordination**

instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 25 of this act] must be amended as follows:

"NEW SECTION. **Section 25. Definitions.** As used in [sections 25 through 27], the following definitions apply:

(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) "Individual" means a human being.

(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any

character.

(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

- (i) a social security number ~~or tax identification number~~;
- (ii) a driver's license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; ~~or~~
- (iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person's financial account;
- (iv) medical record information as defined in 33-19-104;
- (v) a taxpayer identification number; or
- (vi) an identity protection personal identification number issued by the United States internal revenue service.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(7) "Third party" means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency.""

Insert: "COORDINATION SECTION. Section 62. Coordination instruction. If both House Bill No. 74 and [this act] are passed and approved, then [section 27 of this act] must be amended as follows:

"NEW SECTION. Section 27. Notification of breach of security of data system. (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized

person.

(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:

(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and

(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).

(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.

(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:

(a) an information security policy designed to safeguard personal information; and

(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).

(5) A state agency or third party that is required to issue a notification to an individual pursuant to this section shall simultaneously submit to the state's chief information officer at the department of administration and to the attorney general's consumer protection office an electronic copy of the notification and a statement providing the date and method of distribution of the notification. The electronic copy and statement of notification must exclude any information that identifies the person who is entitled to receive notification. If a notification is made to more than one person, a single copy of the notification that includes the number of people who were notified must be submitted to the chief information officer and the

consumer protection office."

Insert: "COORDINATION SECTION. Section 63. Coordination instruction. If both House Bill No. 448 and [this act] are passed and approved and if both contain a section that amends 2-3-221, then House Bill No. 448 is void."

26. Page 44, following line 26.

Insert: "COORDINATION SECTION. Section 64. Coordination instruction. If both House Bill No. 28 and [this act] are passed and approved, then the reference in House Bill No. 28 to "2-6-102, 2-6-110" in [section 1(1)(a)] must be changed to "[sections 3 through 5 of House Bill No. 123]".

Insert: "COORDINATION SECTION. Section 65. Coordination instruction. If both House Bill No. 608 and [this act] are passed and approved, then the reference in House Bill No. 608 to "2-6-102" in [section 6(3)] must be changed to "[section 3 of House Bill No. 123]".

Insert: "COORDINATION SECTION. Section 66. Coordination instruction. If both Senate Bill No. 399 and [this act] are passed and approved, then the reference in Senate Bill No. 399 to "2-6-102 and 2-6-104" in [section 13] must be changed to [section 3 of House Bill No. 123]".

Insert: "COORDINATION SECTION. Section 67. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(1) of House Bill No. 119] must be amended as follows:

"(1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person under [sections 1 through 9] is recognized as proprietary and containing trade secrets. The information is confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, is not admissible ~~as in~~ in evidence in any civil action, and is not subject to subpoena, discovery, ~~the provisions of 2-6-102,~~ or the provisions of the Freedom of Information Act, 5 U.S.C. 552."

Insert: "COORDINATION SECTION. Section 68. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 8(8) of House Bill No. 119] must be amended as follows:

"(8) Information in the possession of or control of the NAIC or a third-party consultant pursuant to [sections 1 through 9] is confidential ~~by law~~ information as provided in [section 2 of

House Bill No. 1231 and privileged, is not admissible in evidence in any private civil action, and is not subject to ~~2-6-102~~, subpoena, or discovery.""

Insert: "COORDINATION SECTION. Section 69. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 15(1) of House Bill No. 119] must be amended as follows:

"(1) Except as provided in subsection (9), a company's confidential information is confidential information as provided in [section 2 of House Bill No. 1231] ~~confidential~~ and privileged, and is not subject to subpoena, or discovery, or public information requests under ~~2-6-102~~ or and is not admissible in evidence in any private civil action.""

Insert: "COORDINATION SECTION. Section 70. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(1) of House Bill No. 119], amending 33-2-116(1), must be amended as follows:

"(1) Documents, materials, and other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to 33-2-1115 and all information reported pursuant to 33-2-1104(3)(1), 33-2-1104(3)(m), 33-2-1111, and 33-2-1113 ~~must be~~ are confidential by ~~law~~ information as provided in [section 2 of House Bill No. 1231] and privileged, are not subject to ~~2-6-102~~, subpoena, or discovery, and are not admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials, and other information to further any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which the documents, materials, or other information pertains unless the commissioner, after giving notice and an opportunity to be heard to the insurer and the insurer's affiliates who would be affected, determines that the interest of policyholders, shareholders, or the public would be served by the publication. On a determination that the interest of policyholders, shareholders, or the public would be served, the commissioner may publish all or any part of the documents, materials, or other information in a manner that the commissioner considers appropriate.""

"COORDINATION SECTION. Section 71. Coordination instruction. If both House Bill No. 119 and [this act] are passed and approved, then [section 31(7) of House Bill No. 119], amending 33-2-1116(7), must be amended as follows:

"(7) Documents, materials, and other information in the

possession or control of the NAIC pursuant to [sections 10 through 16], 33-2-521 through 33-2-529, 33-2-531, 33-2-537, and this section are confidential ~~by law~~ information as provided in [section 2 of House Bill No. 123] and privileged, are not admissible in evidence in a private civil action, and are not subject to ~~2-6-102~~, subpoena, or discovery.""

Renumber: subsequent section

- END -

SENATE PROXY

I, Senator webb, hereby authorize Senator Karr to vote my proxy before the Senate State Administration Committee meeting held on April 1, 2015.

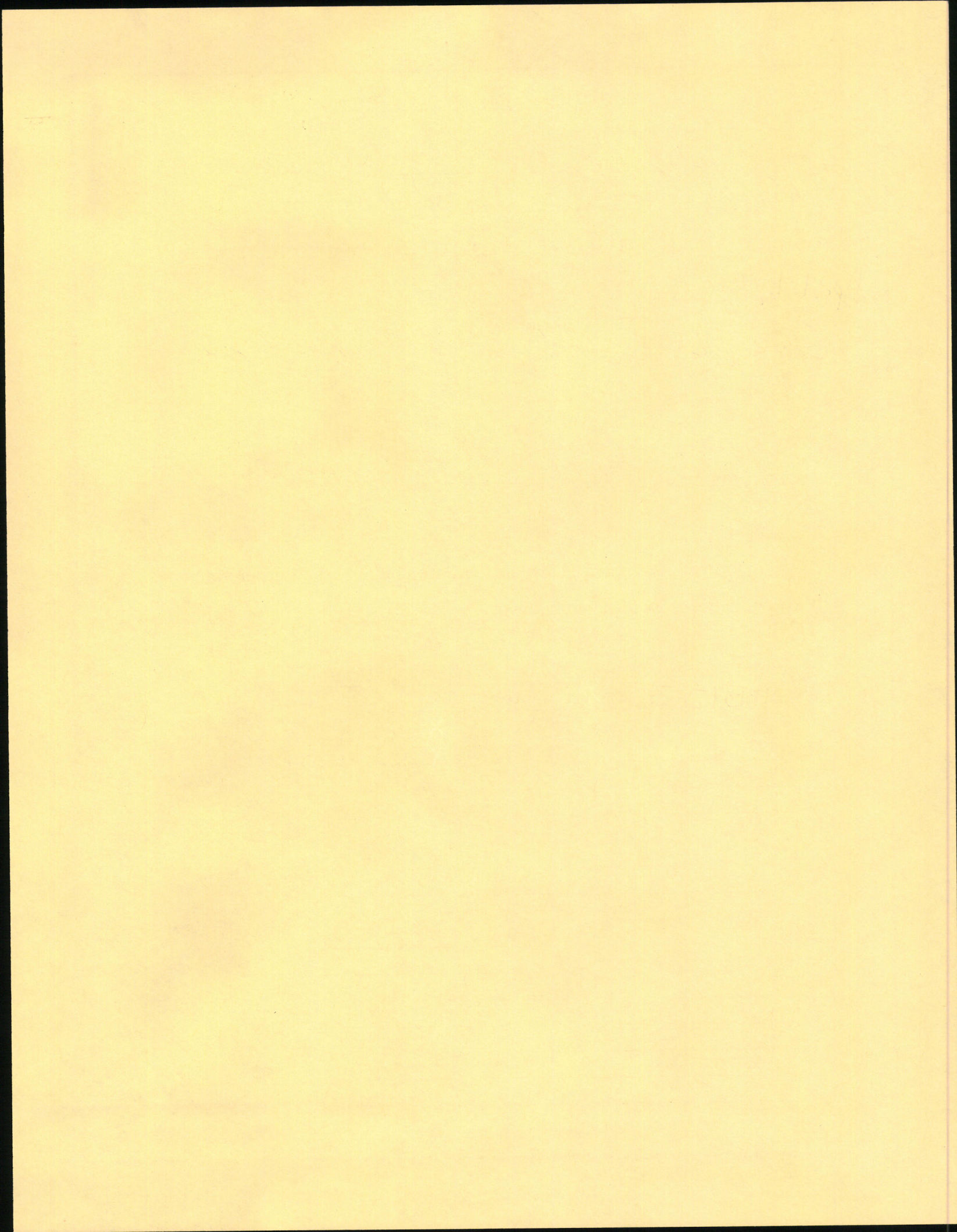
Sen. Robert M. La Follette
Senator Signature

4-1-13
Date

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]



MONTANA STATE SENATE

SENATE STATE ADMINISTRATION COMMITTEE

Wednesday, April 1, 2015

Sponsor: No Bills to be Heard

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.